REMARKS

Claims 1 to 83 are pending in this application. Claims 1 to 7, 12 to 45 and 47 to 67 have been canceled herein without prejudice to Applicants pursuing these claims in one or more applications that claim the benefit of priority to the present application. Claims 69 and 81 have been amended herein, and claims 84 to 98 have been added herein. Thus, upon entry of the present amendments, claims 8 to 11, 46, and 68 to 98 will be under examination.

Regarding the amendments

Claim 81 has been amended to include the word "an" before the word "antibody." No new matter has been introduced by this amendment.

New claims 84 to 98 are directed to TPBD monoclonal antibodies, cell-lines producing monoclonal antibodies and TPBD polyclonal antibodies, in which the antibodies have specific reactivity with amino acid sequences identified by the recited SEQ ID NOS. These new claims are supported by the specification, for example, at page 50, lines 28-32, which indicates that an invention antibody can be a polyclonal or monoclonal antibody; at page 15, lines 4-21, which indicates that an invention TPBD will encode a polypeptide specifically recognized by an antibody that also specifically recognizes the TPBD having the amino acid sequence SEQ ID NO:19 or SEQ ID NO:20, including a sequence set

forth as SEQ ID NOS:8, 12, 23, 24 and 25; and by claims 8 to 10 as originally filed.

As set forth above, the amendments and new claims are supported by the specification and claims as originally filed and do not add new matter. Accordingly, Applicants respectfully request that the Examiner enter the amendments and new claims.

Regarding the objection under 37 C.F.R 1.75

The objection to claim 69 under 37 C.F.R 1.75 as allegedly being a substantial duplicate of claim 68 is respectfully traversed. The Office Action alleges that the genus of antibodies encompassed by claims 68 and 69 appears to be identical because modulation of association of a TPBD with a TNF family receptor, TRAF protein or a TRAF-associated protein would be inherent properties of the claimed antibodies.

Applicants respectfully submit that an ability to modulate the association of a TPBD with a TNF family receptor, TRAF protein or a TRAF-associated protein, is not necessarily an inherent property of an anti-TRAF antibody recited in claim 68. Therefore, rather than being duplicate claims, claims 68 and 69 differ in scope. Claim 69 has been amended herein to depend from claim 68. In view of the above, Applicants request withdrawal of this objection of claims 69 under 37 C.F.R 1.75.

Rejection under 35 U.S.C. § 102(e)

The rejection of claims 8 to 11, 46, 68 to 70, 72 to 75, 79, 81, 82 and 83 under 35 U.S.C. § 102(e) as allegedly anticipated by Rosen et al. (Pub No. US 2002/0044941) is respectfully traversed. Applicants respectfully submit that Rosen et al. is not prior art against the present application. Specifically, Rosen et al. is a US publication of an application having a U.S. filing date (August 10, 2001) later than the filing date of the present application, and Rosen et al. is not valid prior art under 35 U.S.C. § 102(e) as of its priority international application filing date (March 8, 2000) because the priority international application was filed prior to November 29, 2000.

In regard to recent changes in 35 U.S.C. § 102(e), the United States Patent and Trademark Office (USPTO) has set forth its interpretation of 35 U.S.C. § 102(e)and 374, as amended by the American Inventors Protection Act of 1999(AIPA) (Pub. L. 106-113, 113 Stat. 1501 (1999)), and as further amended by the Intellectual Property and High Technology Technical Amendments Act of 2002 (H.R. 2215) (Pub. L. 107-273 (2002)), and has provided the following guidance (Official Gazette, January 14, 2003):

> Specifically, this notice provides guidance that prior art, as defined by § 102(e) of the patent code in effect on November 29, 2000, includes U.S. patents, publications of U.S. patent applications

> and World Intellectual Property Organization's (WIPO) publications of international applications, *provided such references do not directly or indirectly result from an international application filed before November 29, 2000.* (Emphasis added)

In reference to using an international application filing date as a bridge to an earlier U.S. priority claim for prior art purposes, the USPTO guidance further states that:

> International applications, which: *(1) were filed prior to November 29, 2000,* (2) did not designate the U.S., or (3) were not published in English under PCT Article 21(2) by WIPO, may *not* be used to reach back (bridge) to an earlier filing date through a priority or benefit claim for prior art purposes under 35 U.S.C. § 102(e). (Emphasis added)

In view of the above interpretation of 35 U.S.C. § 102(e) by the USPTO, Applicants submit that the cited US application publication is prior art only as of the application's US effective filing date (August 10, 2001), and not as of the international application filing date, because the international application was filed prior to November 29, 2000. Therefore, Applicants respectfully submit that claims 8 to 11, 46, 68 to 70, 72 to 75, 79, 81, 82 and 83 cannot be anticipated

by Rosen et al. Accordingly, Applicants request removal of this rejection under 35 U.S.C. § 102(e).

CONCLUSION

In light of the amendments and remarks herein, Applicants submit that the claims are now in condition for allowance and respectfully request a notice to this effect. Should the Examiner have any questions, she is invited to call the undersigned agent or Cathryn Campbell.

Respectfully submitted,

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